



Town of Lexington

Historic Districts Commission

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ARTICLE 30 - DEMOLITION BY NEGLECT IN THE HISTORIC DISTRICTS

FACT SHEET

1. What is demolition by neglect?

Demolition by neglect occurs when the fabric, viability or use of an unoccupied building is compromised due to decay or structural failure or severe degradation over a period of time, due to a general lack of maintenance, failure to secure the building from pests or vandals, or failure to take reasonable measures to prevent water, snow, ice and wind entering the building through the roof, walls or other openings. This usually results in actual demolition because the building is unsafe or cannot be rehabilitated -- it's too far gone. Demolition by neglect is generally associated with uninhabited buildings that appear abandoned, not structures that simply need a new coat of paint.

2. Don't we already have something like this in Lexington?

Yes -- Chapter 19 of the Code of Lexington contains provisions for demolition by neglect. But Chapter 19 only applies to buildings *outside* of the Historic Districts! So the most architecturally and historically significant buildings in Lexington are left unprotected. Approval of Article 30 will prevent this from happening in the future.

3. Why doesn't Chapter 19 provide protection for the Historic Districts?

There are two distinct Commissions charged with preserving and protecting the historic buildings, places and districts in Lexington: the Historic Districts Commission and the Historical Commission. While both commissions share common preservation and protection goals, each Commission has different areas of geographical responsibility, different levels of review responsibility and different enabling legislations. The Historic Districts Commission (HDC) is enabled by Chapter 447, Acts of 1956 as amended. The Historical Commission was established under Massachusetts General Laws Chapter 40, Section 8D. Chapter 19 was originally written explicitly for the geographical areas served by the Historical Commission, and only applies to the properties listed on the Town's Comprehensive Cultural Resources Survey, (the "Inventory").

4. Doesn't the HDC already have jurisdiction over demolition?

Yes. The enabling legislation for the Historic Districts requires a public hearing and determination before the demolition of a building or structure is permitted. In 1956 when the enabling legislation was originally written, the greatest concern was that historic resources would fall victim to active demolition, and be knocked down with bulldozers and sledgehammers. Since that time, however, the more passive and insidious demolition by neglect has emerged as a strategy for circumventing a public hearing and determination process, diminishing property values in the neighborhood and creating safety concerns along the way.

5. Does adoption of Article 30 increase HDC authority?

The HDC already has jurisdiction over demolition of buildings and structures within the historic districts. Adoption of Article 30 helps to assure that the original intent of the law is upheld by requiring a public hearing and determination before demolition, whether active or passive, is permitted.

6. How does the demolition by neglect by-law work?

If the Historic Districts Commission learns that a building may be undergoing demolition by neglect, the HDC will notify the Building Commissioner and the building owner. The HDC and the Building Commissioner will then hold a joint public hearing to confirm whether the building is significant, and whether in fact it is undergoing demolition by neglect. If both the HDC and the Building Commissioner agree that demolition by neglect is occurring, they shall attempt to negotiate a voluntary agreement with the owner for appropriate and timely repairs sufficient to structurally stabilize the building and prevent further deterioration. If they can't negotiate such an arrangement with the owner, or if the owner fails to undertake the agreed repairs and protections, then the HDC and the Building Commissioner can seek to enforce the agreement by any means available to them, including the application for a court order that specific repairs be undertaken to secure the building against the elements, vandals and animals, to halt further deterioration and to stabilize it structurally. Once all repairs have been made, the HDC will then certify that the building is no longer undergoing demolition by neglect.

7. What can an owner do if he disagrees with the HDC?

As with any action by the HDC, if an owner believes the HDC has acted improperly, he or she can appeal to the Superior Court for Middlesex County, who will hear all the pertinent facts and decide if the HDC has exceeded its authority. If so, the order of the HDC will be annulled.

8. Is demolition by neglect a real problem?

The Historic Districts Commission has identified at least three buildings in the last few years that have been left unprotected and/or unattended -- often owned by absentee landlords. Yet the HDC has been powerless to prevent the adverse consequences of such neglect. By granting to the HDC this authority under Chapter 19, the HDC will be able to meet its purpose of "promoting the educational, cultural, economic and general welfare of the public through the preservation and protection of historic buildings, places and districts" in Lexington. Buildings in the Historic Districts will be provided the same protections as historic structures in the rest of town.

DEMOLITION BY NEGLECT JURISDICTION

LOCATION	GOVERNING COMMISSION	ENABLING LEGISLATION	DEMOLITION REVIEW PROCESS DERIVES FROM:	CURRENTLY PROTECTED FROM DEMOLITION BY NEGLECT?	PROTECTION FROM DEMOLITION BY NEGLECT PROVIDED BY:
Structures WITHIN the Historic Districts	The Historic Districts Commission (HDC)	Chapter 447, Acts of 1956 as amended.	Chapter 447, Acts of 1956 as amended.	No	Chapter 19 <u>IF</u> proposed Article 30 is adopted
Structures OUTSIDE the Historic Districts AND listed on the Inventory	The Historical Commission	Massachusetts General Laws, Chapter 40, Section 8D	Chapter 19 of the Town of Lexington By-Laws	Yes	Chapter 19 as currently written